

BY *Zaffirini*

S.B. No. 482

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a prohibition on the requirement of a polygraph
3 examination of a complainant as a condition of charging a
4 defendant accused of certain criminal offenses.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 15, Code of Criminal Procedure, is
7 amended by adding Article 15.051 to read as follows:

8 Art. 15.051. POLYGRAPH EXAMINATION OF COMPLAINANT
9 PROHIBITED. A peace officer or attorney representing the state
10 may not request or require a polygraph examination of a person
11 who charges or seeks to charge in a complaint the commission of
12 an offense under Section 21.11, 22.011, 22.021, or 25.02, Penal
13 Code.

14 SECTION 2. This Act takes effect September 1, 1993.

15 SECTION 3. The importance of this legislation and the
16 crowded condition of the calendars in both houses create an
17 emergency and an imperative public necessity that the
18 constitutional rule requiring bills to be read on three several
19 days in each house be suspended, and this rule is hereby
20 suspended.

1 By: Zaffirini S.B. No. 482
2 (In the Senate - Filed February 25, 1993; March 1, 1993, read
3 first time and referred to Committee on Criminal Justice;
4 April 6, 1993, reported adversely, with favorable Committee
5 Substitute by the following vote: Yeas 6, Nays 0; April 6, 1993,
6 sent to printer.)

7 COMMITTEE VOTE

	Yea	Nay	PNV	Absent
8 Whitmire				x
9 Brown	x			
10 Nelson	x			
11 Sibley	x			
12 Sims	x			
13 Turner	x			
14 West	x			

16 COMMITTEE SUBSTITUTE FOR S.B. No. 482

By: West

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27 state may not require a polygraph examination of a person who
28 charges or seeks to charge in a complaint the commission of an
29 offense under Section 21.11, 22.011, 22.021, or 25.02, Penal Code.

30 (b) If a peace officer or attorney representing the state
31 requests a polygraph examination of a person who charges or seeks
32 to charge in a complaint the commission of an offense listed in
33 Subsection (a) of this article, the peace officer or attorney must
34 inform the complainant that the examination is not required and
35 that a complaint may not be dismissed solely:

36 (1) because a complainant did not take a polygraph
37 examination; or

38 (2) on the basis of the results of a polygraph
39 examination taken by the complainant.

40 (c) A peace officer or attorney representing the state may
41 not take a polygraph examination of a person who charges or seeks
42 to charge the commission of an offense listed in Subsection (a) of
43 this article unless the officer or attorney provides the
44 information in Subsection (b) of this article to the person and the
45 person signs a statement indicating the person understands the
46 information.

47 (d) A complaint may not be dismissed solely:

48 (1) because a complainant did not take a polygraph
49 examination; or

50 (2) on the basis of the results of a polygraph
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56 constitutional rule requiring bills to be read on three several
57 days in each house be suspended, and this rule is hereby suspended.

* * * * *

Austin, Texas
April 6, 1993

Hon. Bob Bullock
President of the Senate

Sir:

We, your Committee on Criminal Justice to which was referred S.B. No. 482, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Whitmire, Chairman

* * * * *

WITNESSES

FOR AGAINST ON

Name: G. K. Sprinkle	x		
Representing: Tx Assoc Against Sex. Assault			
City: Austin			

Name: Lacey Sloan	x		
Representing: Tx Assoc Against Sex. Assault			
City: Austin			

Name: Bobby Jones	x		
Representing: Tx Assoc of Polygraph Examine			
City: Dallas			

Name: Bryan Perot			x
Representing: Polygraph Examiners Bd			
City: Austin			

Name: Nancy Tart	x		
Representing: TAASA			
City: Austin			

Name: Rebecca Allen	x		
Representing: SAAFE House			
City: Huntsville			

Name: Samantha McDiarmid	x		
Representing: Family Crisis Center			
City: Harlingen			

Name: Laura Gee	x		
Representing: Victims			
City: Beaumont			

Name: Kimbra Ogg	x		
Representing: Harris County Dist Atty			
City: Houston			

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR

By

Author/Senate Sponsor

(date)

We, your Committee on CRIMINAL JUSTICE, to which was referred the attached measure,
have on 4/6/93, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
☒ the caption remained the same as original measure
☒ the caption changed with adoption of the substitute

☐ do pass as substituted, and be ordered not printed

☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Whitmire, Chairman			X	
Brown, Vice-Chairman	X			
Nelson	X			
Sibley	X			
Sims	X			
Turner	X			
West	X			
TOTAL VOTES	6	0	1	0

COMMITTEE ACTION

S268 Considered in public hearing
S270 Testimony taken

COMMITTEE CLERK

CHAIRMAN

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
73rd Regular Session

March 5, 1993

TO: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate Chamber
Austin, Texas

IN RE: Senate Bill No. 482
By: Zaffirini

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 482 (relating to a prohibition on the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JO, JWH, EC

By: Zaffirini

S.B. No. 482

Substitute the following for S.B. No. 482.

By: West West

C.S.S.B. No. 482

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition ^{of} ~~on~~ the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 15, Code of Criminal Procedure, is amended by adding Article 15.051 to read as follows:

Art. 15.051. POLYGRAPH EXAMINATION OF COMPLAINANT PROHIBITED. (a) A peace officer or attorney representing the state may not require a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense under Section 21.11, 22.011, 22.021, or 25.02, Penal Code.

(b) If a peace officer or attorney representing the state requests a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense listed in Subsection (a) of this article, the peace officer or attorney must inform the complainant that the examination is not required and that a complaint may not be dismissed solely:

(1) because a complainant did not take a polygraph examination; or

(2) on the basis of the results of a polygraph examination taken by the complainant.

(c) A peace officer or attorney representing the state may

46-93
414-93

1 not take a polygraph examination of a person who charges or seeks 1/2
2 to charge the commission of an offense listed in Subsection (a) of
3 this article unless the officer or attorney provides the
4 information in Subsection (b) of this article to the person and the
5 person signs a statement indicating the person understands the
6 information.

7 (d) A complaint may not be dismissed solely:

8 (1) because a complainant did not take a polygraph
9 examination; or

10 (2) on the basis of the results of a polygraph
11 examination taken by the complainant.

12 SECTION 2. This Act takes effect September 1, 1993.

13 SECTION 3. The importance of this legislation and the
14 crowded condition of the calendars in both houses create an
15 emergency and an imperative public necessity that the
16 constitutional rule requiring bills to be read on three several
17 days in each house be suspended, and this rule is hereby suspended.

April 14 1993 Engrossed
Engrossing Clerk

1993 APR 19 PM 4:50

HOUSE OF REPRESENTATIVES

I certify that the attached is a true and correct
copy of SB 482, which was
received from the Senate on 4-14-93 and
referred to the Committee on Criminal
Justice Jurisdiction
Chief Clerk of the House

By: Zaffirini
(Danburg)

S.B. No. 482

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
73rd Regular Session

April 8, 1993

TO: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate Chamber
Austin, Texas

IN RE: Committee Substitute for
Senate Bill No. 482

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for Senate Bill No. 482 (relating to a prohibition of the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JO, JWH, EC

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
73rd Regular Session

March 5, 1993

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Source: LBB Staff: JO, JWH, EC

93 APR 29 PM 5:36
HOUSE OF REPRESENTATIVES

**HOUSE
COMMITTEE REPORT**

1st Printing

By: Zaffirini

S.B. No. 482

(Danburg)

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16 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable Pete Laney
Speaker of the House of Representatives

4-28-93
(date)

Sir:

We, your COMMITTEE ON CRIMINAL JURISPRUDENCE
to whom was referred SB 482 have had the same under consideration and beg to report
(measure)

back with the recommendation that it

☒ do pass, without amendment.
☐ do pass, with amendment(s).
☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. () yes ☒ no An author's fiscal statement was requested. () yes ☒ no

A criminal justice policy impact statement was requested. () yes ☒ no

An equalized educational funding impact statement was requested. () yes ☒ no

An actuarial impact statement was requested. () yes ☒ no

A water development policy impact statement was requested. () yes ☒ no

() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

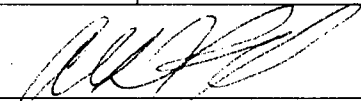
House Sponsor of Senate Measure DANBURG

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Place, Ch.	✓			
Hartnett, V.C.	✓			
Allen	✓			
Combs	✓			
De La Garza	✓			
Granoff				X
Greenberg	✓			
Nieto	✓			
Solis	✓			
Stiles				X
Talton				X

Total

8 aye
0 nay
0 present, not voting
3 absent


CHAIRMAN

COMMITTEE ON CRIMINAL JURISPRUDENCE

BILL ANALYSIS

BY: Zaffirini (Danburg)

S.B. 482

BACKGROUND

Chapter 15, Code of Criminal Procedure, sets forth arrest procedures under a warrant of arrest. Currently, there is no prohibition in the chapter against a law enforcement officer or attorney requesting a polygraph examination of a person who charges, or seeks to charge in a complaint, the commission of a violent offense.

PURPOSE

S.B. 482 prohibits a peace officer or attorney representing the state from requiring a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 15, Code of Criminal Procedure, by adding Article 15.051, as follows:

Art. 15.051. POLYGRAPH EXAMINATION OF COMPLAINANT PROHIBITED.

(a) Prohibits a peace officer or attorney representing the state from requiring a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense under Section 21.11, 22.11, 22.021, or 25.02, Penal Code, which relate to sexual offenses.

(b) Provides that if a peace officer or attorney representing the state requests a polygraph examination of a person who charges or seeks to charge in a complaint the commission of such an offense the peace officer or attorney must inform the complainant that the examination is not required and that a complaint may not be dismissed solely because a complainant did not take a polygraph examination, or on the basis of the results of a polygraph examination taken by the complainant.

(c) Prohibits a peace officer or attorney representing the state from taking a polygraph examination of a person who charges or seeks to charge the commission of such an offense unless the officer or attorney provides the information in Subsection (b) of this article to the person and the person signs a statement indicating the person understands the information.

(d) Prohibits a complaint from being dismissed solely because a complainant did not take a polygraph examination, or on the basis of the results of a polygraph examination taken by the complainant.

SECTION 2. Effective date: September 1, 1993.

SECTION 3. Emergency clause.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not delegate any additional rulemaking authority to a state officer, agency, department, or institution.

SUMMARY OF COMMITTEE ACTION

Public notice was posted in accordance to the rules. S.B. 482 was considered in a public hearing on April 26, 1993. Rob Kepple, representing the Texas District and County Attorneys Association, testified on the bill. Lacey Sloan, representing the Texas Association Against Sexual Assault, and Hannah Riddering, representing the Texas National Organization for Women, testified in favor of the bill. S.B. 482 was left pending in committee. On April 28, 1993, the full committee considered S.B. 482 in a formal meeting. A motion to report S.B. 482 to the full house with the recommendation that it do pass prevailed by the following record vote: 8 ayes, 0 nays, 0 pnv, and 3 absent.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
73rd Regular Session

April 8, 1993

TO: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate Chamber
Austin, Texas

IN RE: Committee Substitute for
Senate Bill No. 482

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for Senate Bill No. 482 (relating to a prohibition of the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses) this office has determined the following:

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Source: LBB Staff: JO, JWH, EC

4

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
73rd Regular Session

March 5, 1993

TO: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate Chamber
Austin, Texas

IN RE: Senate Bill No. 482
By: Zaffirini

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 482 (relating to a prohibition on the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses) this office has determined the following:

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Source: LBB Staff: JO, JWH, EC

A BILL TO BE ENTITLED

AN ACT:

relating to a prohibition on the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses.

482-25-93

Filed with the Secretary of the Senate

MAR - 1 1993

Read and referred to Committee on CRIMINAL JUSTICE

Reported favorably

4-6-93

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

APR 14 1993

Senate and Constitutional Rules to permit consideration suspended by:

unanimous consent

____ years, ____ nays

APR 14 1993

Read second time, _____, and ordered engrossed by:

unanimous consent
a viva voce vote

____ years, ____ nays

APR 14 1993

Caption ordered amended to conform to the body of the bill.

Senate and Constitutional 3 Day Rule suspended by a vote of 29 yeas, 0 nays.

APR 14 1993

Read third time, _____, and passed by:

A viva voce vote

____ yeas, ____ nays

Betty King

SECRETARY OF THE SENATE

OTHER ACTION:

April 14, 1993

Engrossed

April 14, 1993

Sent to House

Engrossing Clerk

Betty King

APR 14 1993

Received from the Senate

APR 15 1993

Read first time and referred to Committee on CRIMINAL JURISPRUDENCE

4-28-93

Reported favorably amended, sent to Printer at 3:30 pm 4:29.93

4-29-93

Printed and Distributed 5:36 pm

4-30-93

Sent to Committee on Calendars 2:43 pm

Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of ____ yeas, ____ nays ____ present not voting.

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of ____ yeas, ____ nays ____ present not voting.

Read third time (amended): finally passed (failed) by a (Non-Record Vote) Record Vote of

____ yeas, ____ nays ____ present not voting.

Caption ordered amended to conform to body of bill.

Returned to Senate.

CHIEF CLERK OF THE HOUSE

Returned from House without amendment.

Returned from House with ____ amendments.

Concurred in House amendments by a viva voce vote ____ yeas, ____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____, _____, _____, and _____.

_____ House granted Senate request. House conferees appointed: _____, Chairman; _____, _____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____.

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by: _____.

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____.

{ a viva voce vote
_____ yeas, _____ nays

93 APR 29 PM 5:36
HOUSE OF REPRESENTATIVES

LEGISLATIVE BUDGET BOARD

CRIMINAL JUSTICE POLICY IMPACT STATEMENT

April 8, 1993

TO: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate Chamber
Austin, Texas

IN RE: Committee Substitute for Senate Bill No.
482

FROM: Jim Oliver, Director

In response to your request for a Criminal Justice Policy Impact Statement on Committee Substitute for Senate Bill No. 482 (relating to a prohibition of the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses), this office has determined the following:

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

LEGISLATIVE BUDGET BOARD

CRIMINAL JUSTICE POLICY IMPACT STATEMENT

March 8, 1993

TO: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate Chamber
Austin, Texas

IN RE: Senate Bill No. 482
By: Zaffirini

FROM: Jim Oliver, Director

In response to your request for a Criminal Justice Policy Impact Statement on Senate Bill No. 482 (relating to a prohibition on the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses), this office has determined the following:

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BILL ANALYSIS

Senate Research Center

S.B. 482
By: Zaffirini
Criminal Justice
3-26-93
As Filed

BACKGROUND

Chapter 15, Code of Criminal Procedure, sets forth arrest procedures under a warrant of arrest. Currently, there is no prohibition in the chapter against a law enforcement officer or attorney requesting a polygraph examination of a person who charges, or seeks to charge in a complaint, the commission of a violent offense.

PURPOSE

As proposed, S.B. 482 prohibits a peace officer or attorney representing the state from requesting or requiring a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an certain offense

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 15, Code of Criminal Procedure, by adding Article 15.051, as follows:

Sec. 15.051. POLYGRAPH EXAMINATION OF COMPLAINANT PROHIBITED. Prohibits a peace officer or attorney representing the state from requesting or requiring a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense under Section 21.11, 22.11, 22.021, or 25.02, Penal Code, which relate to sexual offenses.

SECTION 2. Effective date: September 1, 1993.

SECTION 3. Emergency clause.

BILL ANALYSIS

Senate Research Center

C.S.S.B. 482
By: Zaffirini
Criminal Justice
4-12-93
Committee Substitute

BACKGROUND

Chapter 15, Code of Criminal Procedure, sets forth arrest procedures under a warrant of arrest. Currently, there is no prohibition in the chapter against a law enforcement officer or attorney requesting a polygraph examination of a person who charges, or seeks to charge in a complaint, the commission of a violent offense.

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